

**AUCTIONEER BOARD
MADISON, WISCONSIN
MINUTES
AUGUST 27, 2001**

PRESENT: Richard Lust, Marie Kohlbeck, Mark Shain, Ronald Bast (by teleconference), and Robert Brandau

EXCUSED: Robert Massart

STAFF PRESENT: Cletus Hansen; William Dusso, Gary Gorlen (Administrator of the Division of Management Services), and Division of Enforcement staff for portions of the meeting.

GUEST: Warren Weise, a member of the public

CALL TO ORDER

The meeting was called to order at 9:16 a.m. by Richard Lust, Chair, upon confirmation that the public notice was timely given. A quorum of six members was present.

AGENDA

MOTION: Marie Skic moved, seconded by Marie Kohlbeck, to adopt the agenda, as published. Motion carried unanimously.

MINUTES (4/23/01)

MOTION: Ron Bast moved, seconded by Mark Shain, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Cletus J. Hansen

- **Roster**

The Board received a copy of the Board roster, dated June 2001. Marie Skic stated that her last name has been changed from "Skic-Loy" to "Skic."

Richard Lust congratulated Ron Bast for winning First Place, Business Promotion, Company Brochure at the National Auctioneers Association.

Mark Shain expressed the condolences of the Board to Roxanne Peterson regarding the death of her father.

Richard Lust referred to a celebration that Robert Brandau had on August 26 and congratulated him for working as an auctioneer for 50 years.

- **Meeting Dates for 2001**

Noted

- **To-Do List**

Mr. Hansen informed the Board that the items on the To-Do List have been accomplished.

- **Monthly Press Releases**

Noted

- **Summary of Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules**

Noted

- **Travel Reimbursements**

Hansen called the Board's attention to the mileage reimbursement changes, the in-state lodging maximums and the meal maximums which include tax and tip, but not alcoholic beverages.

- **To-Pass Folder**

The Board members noted the newsletter of the Wisconsin Auctioneers Association.

LEGISLATIVE UPDATE

LRB-1135/2 Temporary Registration, Advertising, Auction-Related Services While Suspended or Revoked

Motion: Ron Bast moved, seconded by Robert Brandau, to approve LRB-1153/3, relating to auctioneer registration exemption, auctioneer examination, advertisements of auctions, eliminating the temporary auctioneer certificate, revocation or suspension of auctioneer and auction company registrations, and granting rule-making. The Board hereby requests that a bill be introduced. Motion carried unanimously.

ADMINISTRATIVE RULES

Mandatory Continuing Education

Mr. Hansen indicated that he discussed with Secretary Herrera, the Board's recommendation relating to mandatory continuing education and that Secretary Herrera has decided to accept the Board's recommendation for requiring mandatory continuing education. Hansen also said that a letter had been sent to Representative Richard Skindrud; however, Representative Skindrud did not respond to the letter.

Richard Lust requested that Hansen report on the continuing education requirements of other states. He also suggested that the Board and the Department might want to consider having a core of 6 hours, plus a 3-hour segment for which there could be a choice from among several topics.

MOTION: Marie Skic moved, seconded by Marie Kohlberg, to request that Clete Hansen prepare for the next Board meeting a rule draft, based on the continuing education rule that had been in place several years ago, and that the proposal include provisions relating to distance learning. Motion carried unanimously

REVIEW OF AUCTIONEER CONTRACT

The Board and Colleen Baird reviewed the letter sent to the Board by Attorney Daryl Laatsch, on behalf of Badger Auctioneers and Theodore Fleisner, on June 22, 2001. The Board continued to have a concern about the contractual provision relating to the auctioneer's authority to bid at the auction. The Board concluded that an auctioneer may not create a contract that allows the auctioneer to bid or purchase items at an absolute auction. This would not be protecting the consumer. The Board requested another letter from Fleisner or his attorney in time for the October Board meeting.

PRACTICE QUESTIONS

Requiring a Buyer to Make a Deposit

The Board members noted suggestions that Richard Lust sent to Hansen and an e-mailer on July 2, 2001.

Questions RE Auditing

The Board members noted suggestions that Richard Lust sent to Gene Kleinert, DOE Auditor, on June 22, 2001.

Bidding by Sellers

Bidding by Auctioneers or Their Staff

Warren Weise, a resident of Sun Prairie, described some auctioneering practices that he considers to be unfair to sellers and buyers. Weise's primary concern relates to auctioneers bidding at their auctions. The Board suggested that Weise should file a complaint against specific auctioneers. The Board explained the law concerning bidding at absolute auctions and auctions with reserve. The Board also advised Weise that it will review its rules to determine whether the rules can more specifically address the issue of sellers and auctioneers bidding at their own auctions. The Board requested that Hansen obtain information about the rules of other states, relating to this issue.

Stamping "Trust Account" on Checks

Richard Lust and William Dusso discussed the fundamental requirement that the auctioneer or auction company have the word "trust account" as part of the name of the account at the depository institution.

Buyers Paying Seller Directly By Check

Richard Lust discussed his concerns about these practices and questioned whether such practices can result in avoidance of paying sales taxes. He urged the Board to consider developing rules that clarify the requirements relating to such practices.

MISCELLANEOUS INFORMATION/CORRESPONDENCE

Notices of Denial: Renewal Applications

The Board noted the denial of renewal, relating to Roy J. Passineau.

Correspondence with the National Auctioneers License Law Officials Association (NALLOA)

Noted

NALLOA NEWS

Noted.

Statistics re: Licensees Not Wanting their Names on a List of 10 or more Licensees

Hansen explained the right of licensees to have their name excluded from lists, to protect their privacy.

Copy of Order Suspending the Auctioneer's License of Gene J. Finz (Albuquerque)

Noted

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT

Charles Howden presented stipulations, relating to Martin Koll (Fond du Lac) and Travis Parr (Blair).

NEW BUSINESS

None

PUBLIC COMMENTS

Comments of Warren Weise, as noted above.

RECESS TO CLOSED SESSION

MOTION: Mark Shain moved, seconded by Marie Skic, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person. Specifically, to deliberate on a stipulations and a case closing. Motion carried unanimously by a roll call vote: Robert Brandau-yes; Marie Kohlbeck-yes; Marie Skic-Loy-yes; Mark Shain-yes; Robert Massart-yes; Richard Lust-yes. (Ron Bast did not vote, because he left the meeting during the discussion of practice questions.)

Open Session recessed at 11:46 a.m.

The Board deliberated on two stipulations and one case closing.

The Board received a copy of the Case Status Report.

ADJOURN CLOSED SESSION

MOTION: Mark Shain moved, seconded by Robert Brandau, to adjourn the Closed Session and to reconvene in Open Session at 11:49 a.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION MONITORING ISSUES

STIPULATIONS

Martin P. Koll (Fond du Lac, WI)

MOTION: Marie Skic moved, seconded by Marie Kolbeck, to accept the Findings of Fact, Conclusions of Law and Stipulation, relating to Martin P. Koll. Motion carried (The Case Advisor, Richard Lust, abstained.)

Travis Parr (Blair, WI)

MOTION: Mark Shain moved, seconded by Marie Skic, to accept the Findings of Fact, Conclusions of Law and Stipulation, relating to Travis Parr. Motion carried. (The Case Advisor, Robert Brandau, abstained.)

CASE CLOSING

MOTION: Marie Kohlbeck moved, seconded by Robert Brandau, to close the following case. Motion carried unanimously.

01 AUC 001

OTHER ITEMS AS AUTHORIZED BY LAW

None

ADJOURNMENT

MOTION: Marie Kohlbeck moved, seconded by Marie Skic, to adjourn the meeting at 11:37 a.m. Motion carried unanimously.